

REMARKS

In the Advisory Action dated December 30, 2009, the Examiner indicates that the §1.116 Response filed on October 30, 2009 was not entered. The Examiner indicates that the amendments of claim 4 to reintroduce SEQ ID NO: 7 and SEQ ID NO: 8 would require new search and consideration. Further, the Examiner indicates that Applicants have not filed a terminal disclaimer to overcome the outstanding double patenting rejection. Additionally, the Examiner indicates that the claim amendments presented in the §1.116 Response are non-compliant.

While Applicants disagree with the Examiner's refusal to enter the §1.116 Response, Applicants are filing a Request for Continued Examination herewith to ensure the entry of the §1.116 Response.

Because the non-compliant issues identified by the Examiner in the Advisory Action, Applicants are resubmitting the claim amendments in the foregoing claim listing, which listing properly identifies canceled claims and added claim 22.

Applicants wish to reassert that SEQ ID NO: 7 and SEQ ID NO: 8 represent specific peptides falling within the genus characterized in claim 1. Because the genus of claim 1 has been found to be patentable over the prior art, peptides represented by SEQ ID NOS: 7-8 should also be patentable.

Further, with respect to the double patenting rejection, it is recognized that the conflicting application (Serial No. 10/537,088) underlying the outstanding double patenting rejection has issued as U.S. Patent 7,507,717. It is noted that among the conflicting claims of the '088 application identified by the Examiner, claims 2, 12-13, 15-21 and 38-41 were canceled prior to issuance. Without acquiescing to the basis of the Examiner's double patenting

rejection, Applicants submit herewith a terminal disclaimer to disclaim the excess term relative to the '717 patent. Withdrawal of the double patenting rejection is therefore respectfully requested.

Applicants wish to remind the Examiner of the request for rejoinder of the method claims, once the product claims are found allowable.

Conclusion

In view of the foregoing amendments and remarks, it is firmly believed that the present application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



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